

PART 3—HEALTH CLUBS

47-18-301. Definitions. — As used in this part, unless the context otherwise requires:

- (1) “Buyer” means a purchaser under a health club agreement;
- (2) “Commissioner” means the commissioner of commerce and insurance;
- (3) “Division” means the consumer affairs division of the department of commerce and insurance;
- (4)(A) “Health club” means any enterprise, however styled, which offers on a regular, full-time basis, and pursuant to a health club agreement, services or facilities for the development or preservation of physical fitness through exercise, weight control or athletics;
- (B) “Health club” does not include the following:
 - (i) Any organization primarily operated for the purpose of teaching a particular form of martial arts such as judo or karate;
 - (ii) Weight loss or control services which do not provide physical exercise services, facilities, or equipment; or
 - (iii) Any nonprofit health club that is exempt from taxation under the provisions of § 67-6-330(a)(17), or any nonprofit health club operated as part of a licensed nonprofit hospital exempt from taxation under § 67-5-212;
- (5) “Health club agreement” means an agreement whereby a buyer purchases, or is obligated to purchase, any right to use health club facilities or services; and such services or facilities are for personal, family, employee, or household use; and
- (6) “Operator” means any person, firm, corporation, or business entity which operates a health club. [Acts 1984, ch. 630, § 1; 1989, ch. 460, §§ 14, 18; 1996, ch. 929, §§ 1, 2; 2001, ch. 126, § 1; 2005, ch. 95, § 1.]

Compiler’s Notes. For codification of Acts 1989, ch. 460, see the Session Law Disposition Tables in Volume 13.

Amendments. The 2005 amendment, in (4)(B)(iii), inserted “nonprofit” near the beginning, substituted “§ 67-6-330(a)(17)” for “§ 67-6-330(a)(19)”, and added “, or any nonprofit health club operated as part of a licensed nonprofit hospital exempt from taxation under § 67-5-212” at the end.

Effective Dates. Acts 2005, ch. 95, § 2.
April 22, 2005.

Section to Section References. This part is referred to in §§ 47-18-125, 47-18-315, 47-18-316, 47-18-2102.

Law Reviews. The Tennessee Consumer Protection Act: An Overview, 58 Tenn. L. Rev. 455 (1991).

NOTES TO DECISIONS

1. Constitutionality.

The limiting of the application of the Health Club Bond Act to for-profit corporations is not arbitrary or discriminatory and is not violative of the equal protection guaranteed by the federal or state constitutions. *State v. Southern Fitness & Health, Inc.*, 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

The limiting of the Health Club Bond Act to agreements of three months or longer has a rational basis and is related to the legitimate legislative objective of limiting consumer loss due to a health club’s inability to fulfill its obligations under its membership agreements. *State v. Southern Fitness & Health, Inc.*, 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

Since the Health Club Bond Act applies only

to agreements entered into after its effective date, it does not impair any contractual obligations or vested property rights. *State v. Southern Fitness & Health, Inc.*, 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

47-18-302. Certificate of registration. — (a) It is unlawful to operate a health club unless a valid certificate of registration is obtained for each location where health club services or facilities are provided and payment of the fee required for such registration is made.
(b) Each holder of a certificate of registration shall display such certificate in a conspicuous place at the location where health club services or facilities are provided.
(c) Certificates of registration shall be renewed annually. [Acts 1984, ch. 630, § 2; 1986, ch. 894, § 1; 1989, ch. 460, § 1.]

NOTES TO DECISIONS

ANALYSIS

1. Constitutionality.
2. Violations.

1. Constitutionality.

The provisions setting a single bonding amount, regardless of the size of the health club operation, are not arbitrary nor discriminatory and thus not unconstitutional. *State v. Southern Fitness & Health, Inc.*, 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).
Since the Health Club Bond Act applies only to agreements entered into after its effective date, it does not impair any contractual obligations or vested property rights. *State v. Southern Fitness & Health, Inc.*, 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

The 1986 amendment creating an exemption from the bonding requirement for health clubs that have been operated for at least five years under the same ownership is directly and reasonably related to the legitimate legislative objective which is to limit consumer loss due to a health club's inability to satisfy its obligations under its membership agreements. *State v. Southern Fitness & Health, Inc.*, 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

2. Violations.

Trial court did not err when it granted summary judgment to health club owners who had operated a club without a certificate of registration for three months where state sought restitution but could not produce any consumers who wanted relief; however, the court erred when it held that the state could not pursue remedies under the Health Club Act, T.C.A. § 47-18-301 et seq., only under the Consumer Protection Act, T.C.A. § 47-18-101 et seq., but, the state did not suffer any damage by that error. *State v. Thompson*, — S.W.3d —, 2003 Tenn. App. LEXIS 240 (Tenn. Ct. App. Mar. 20, 2003), rehearing denied, — S.W.3d —, 2003 Tenn. App. LEXIS 294 (Tenn. Ct. App. Apr. 14, 2003).

Violation of T.C.A. § 47-18-302, requiring a certificate of registration is per se a violation of the Consumer Protection Act, T.C.A. § 47-18-101 et seq., as well. *State v. Thompson*, — S.W.3d —, 2003 Tenn. App. LEXIS 240 (Tenn. Ct. App. Mar. 20, 2003), rehearing denied, — S.W.3d —, 2003 Tenn. App. LEXIS 294 (Tenn. Ct. App. Apr. 14, 2003).

47-18-303. Unenforceable health club agreements. — A health club agreement shall be unenforceable against the buyer, and the buyer shall be entitled to a refund less that portion of the total price which represents actual use of the facilities and less the cost of goods and services consumed by the buyer if:

- (1) The buyer entered into the agreement in reliance upon any false, deceptive, or misleading information, representation, notice, or advertisement;
- (2) The health club fails to obtain or fails to maintain a certificate of registration as required by this part; or
- (3) The agreement fails to conform with the provisions of this part. [Acts 1984, ch. 630, § 3; 1986, ch. 894, § 2; 1989, ch. 460, §§ 5, 6; 1996, ch. 929, § 3.]

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Cited: State v. Southern Fitness & Health, Inc., 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

NOTES TO DECISIONS

1. Remedies.

Remedies listed in T.C.A. § 47-18-303 would also be available to the state. State v. Thompson, — S.W.3d —, 2003 Tenn. App. LEXIS 240 (Tenn. Ct. App. Mar. 20, 2003), rehearing denied, — S.W.3d —, 2003 Tenn. App. LEXIS 294 (Tenn. Ct. App. Apr. 14, 2003).

47-18-304. [Transferred.]

Code Commission Notes. Former § 47-18-304, concerning enforcement, was transferred to § 47-18-320 in 1986.

47-18-305. Requirements for valid agreements. — (a) All health club agreements shall:

- (1) Be in writing;
- (2) Be signed by the buyer;
- (3) Designate the date on which the buyer actually signed the agreement; and
- (4) Contain in boldface type of at least ten (10) points, in immediate proximity to the space reserved for the signature of the buyer, the following statement:

BUYER'S RIGHT TO CANCEL

YOU (THE BUYER) MAY CANCEL THIS AGREEMENT BY SENDING NOTICE OF YOUR WISH TO CANCEL TO THE HEALTH CLUB BEFORE MIDNIGHT OF THE THIRD DAY (EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS) AFTER THE DAY YOU SIGNED THE AGREEMENT. THIS NOTICE MUST BE SENT BY REGISTERED MAIL TO THE FOLLOWING ADDRESS:

WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THE NOTICE OF CANCELLATION, THE HEALTH CLUB WILL RETURN ANY PAYMENTS MADE AND ANY NOTE EXECUTED BY YOU IN CONNECTION WITH THE AGREEMENT.

- (5)(A) Contain in boldface type of at least ten (10) points, the following statement:

SHOULD YOU (THE BUYER) CHOOSE TO PAY THIS AGREEMENT IN FULL, BE AWARE THAT YOU ARE PAYING FOR FUTURE SERVICES AND MAY BE RISKING LOSS OF YOUR MONEY IN THE EVENT THIS HEALTH CLUB CEASES TO CONDUCT BUSINESS.

- (B) Contain in boldface type, the following statements in separated paragraphs:

(i) IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY

LAW, IN THE EVENT THIS HEALTH CLUB CEASES OPERATION

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AND FAILS TO OFFER YOU (THE BUYER) AN ALTERNATE LOCATION WITHIN FIFTEEN (15) MILES, WITH NO ADDITIONAL COST TO YOU, THEN NO FURTHER PAYMENTS SHALL BE DUE TO ANYONE, INCLUDING ANY PURCHASER OF ANY NOTE ASSOCIATED WITH OR CONTAINED IN THIS CONTRACT.

(ii) STATE LAW REQUIRES THAT HEALTH CLUB AGREEMENTS BE PAYABLE ONLY IN THE FOLLOWING MANNER, AND ANY HEALTH CLUB WHICH ENTERS INTO HEALTH CLUB AGREEMENTS SHALL OFFER BOTH PAYMENT OPTIONS AT THE SAME PRICE, EXCLUDING INTEREST OR FINANCE CHARGES OR OTHER EQUIVALENT CHARGES WHICH SHALL NOT EXCEED EIGHTEEN PERCENT (18%) OF THE TOTAL CONTRACT PRICE:

(a) Full payment within ninety (90) days after entering into the health club agreement; or

(b) Equal monthly installments with any down payment (unless exempt as provided by law) limited to thirty percent (30%) of the total cost of the agreement. Prepayment is allowed at any time with full refund of unearned finance charges.

(iii) THIS CONTRACT DOES NOT CONTAIN ANY PAYMENTS OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, ENROLLMENT FEES, MEMBERSHIP FEES, OR ANY OTHER DIRECT PAYMENTS TO THE HEALTH CLUB, OTHER THAN FULL PAYMENT FOR THE HEALTH CLUB AGREEMENT OR MONTHLY INSTALLMENT PAYMENTS WITH ANY DOWN PAYMENT (UNLESS EXEMPT AS PROVIDED BY LAW) LIMITED TO THIRTY PERCENT (30%) OF THE TOTAL COST OF THE AGREEMENT, AND, IN THE CASE OF INSTALLMENT PAYMENTS WHICH ARE NOT MADE BY ELECTRONIC FUND TRANSFER OR CASH, AN ADMINISTRATIVE CHARGE, NOT TO EXCEED FIVE DOLLARS (\$5.00) FOR EACH BILLING PERIOD.

(iv) THERE ARE NO AUTOMATIC OR LIFETIME RENEWALS OF THE TERM INCIDENT TO THE TERM OF THIS CONTRACT. IF THE HEALTH CLUB PROVIDES FOR A RENEWAL OPTION, SUCH OPTION MUST BE AFFIRMATIVELY AGREED TO IN WRITING BY THE BUYER AT THE BEGINNING OF THE RENEWAL PERIOD. IF THE HEALTH CLUB FACILITY IS LESS THAN OR EQUAL TO TEN THOUSAND (10,000) SQUARE FEET (GROSS) OF BUILDING SPACE, THEN THE ANNUAL COST OF SUCH RENEWAL SHALL NOT BE LESS THAN THIRTY PERCENT (30%) OF THE ANNUALIZED COST OF THE BASE MEMBERSHIP CONTRACT OR SEVENTY-FIVE DOLLARS (\$75), WHICHEVER IS GREATER. HOWEVER, IF THE HEALTH CLUB FACILITY IS GREATER THAN TEN THOUSAND (10,000) SQUARE FEET (GROSS) OF BUILDING SPACE, THEN THE ANNUAL COST OF SUCH RENEWAL SHALL NOT BE LESS THAN THIRTY PERCENT (30%) OF THE ANNUALIZED COST OF THE BASE MEMBERSHIP CONTRACT OR ONE HUNDRED TWENTY-FIVE DOLLARS (\$125), WHICHEVER IS GREATER. PAYMENT OF ANY RENEWAL SHALL BE MADE AS

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REQUIRED BY TENNESSEE CODE ANNOTATED, SECTION 47-18-305(A)(5)(B)(ii).

(v) A CONTRACT OR AGREEMENT MAY HAVE A CONTINUING PROVISION OR STIPULATION THAT PROVIDES FOR A MONTH TO MONTH CONTINUATION OF THE INITIAL TERM OF THE

AGREEMENT PROVIDED THE BUYER HAS THE RIGHT TO CANCEL THE CONTINUING PORTION OF THE AGREEMENT AFTER FULFILLING THE ORIGINAL TERM OF THE AGREEMENT BY TENDERING THIRTY (30) DAYS WRITTEN NOTICE OF SUCH INTENT TO THE OPERATOR BY REGISTERED MAIL. IF SUCH CONTRACTUAL OBLIGATION HAS A CONTINUING PROVISION OR STIPULATION, NOTIFICATION MUST BE SENT BY THE HEALTH CLUB OPERATOR TO CONFIRM THAT THE ORIGINAL OBLIGATION WAS FULFILLED AND TO REAFFIRM THE MONTH TO MONTH OR CONTINUING PROVISION OR STIPULATION. SUCH NOTIFICATION SHALL ALSO INCLUDE NOTICE OF THE BUYER'S RIGHT TO CANCEL THE CONTINUING MONTH-TO-MONTH OBLIGATION UPON THIRTY (30) DAYS' WRITTEN NOTICE SENT BY THE BUYER TO THE OPERATOR BY REGISTERED MAIL.

(vi) ANY RENEWAL RIGHT GRANTED UNDER THIS CONTRACT SHALL EXPIRE ON THE FINAL DAY OF THE AGREEMENT. HOWEVER, THE BUYER SHALL HAVE A THIRTY (30) DAY GRACE PERIOD FROM THE DATE OF THE EXPIRATION OF THE RENEWAL RIGHT IN WHICH TO EXERCISE ANY RENEWAL RIGHT GRANTED TO THE BUYER UNDER THIS CONTRACT. THE OPERATOR SHALL HAVE THE RIGHT TO CHARGE A LATE PENALTY OF UP TO \$25 IF THE RENEWAL RIGHTS ARE NOT EXERCISED ON OR BEFORE THE EXPIRATION DATE AS STIPULATED IN THE AGREEMENT OR ANY FUTURE RENEWAL PERIODS.

(b) A health club shall not enter into or offer to enter into a health club agreement unless the health club is fully operational and available to use by prospective buyers. The division shall, upon application by a health club operator, certify that a health club facility is fully operational if all of the promised equipment and services are available for use by prospective buyers. No payment or promise to pay by a prospective buyer may be accepted by any health club operator unless and until the health club facility has been certified by the division to be fully operational as described herein. This subsection shall not apply to any health club that has maintained a satisfactory registration with the division for five (5) consecutive years; provided, that, such health clubs notify the division by certified mail of their intent to enter into agreements for a location not fully operational as otherwise required by this subsection. In order to be eligible to use this exemption, an operator must use the same identification as described in any existing facility registration information as well as use the same federal and state tax accounts for payments of any related taxes due to this extension of operations.

(c) It is unlawful for a health club to offer any cash or discounted prepayment option that exceeds a reduction of the cash value of the highest stated price for any similar period or service-type of agreement:

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(1) By an excess of ten percent (10%) for any term less than two (2) years duration;

(2) By an excess of fourteen percent (14%) for any term of two (2) years duration, but less than three (3) years duration; or

(3) By an excess of eighteen percent (18%) for any term of three (3) years duration.

(d) It shall be unlawful for a health club to offer free or no cost periods of enrollment in addition to the initial paid term of the agreement in order to circumvent the discounting provision of subsection (c).

[Acts 1986, ch. 894, § 3; 1989, ch. 460, §§ 9-11; 1990, ch. 832, §§ 1, 2; 1996, ch. 929, §§ 4-8.]

Cross-References. Certified mail instead of

registered mail, § 1-3-111.

Cited: State v. Southern Fitness & Health, Inc., 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987); Westside Health & Racquet Club v. Jefferson Fin. Servs., Inc., 19 S.W.3d 796, 1999 Tenn. App. LEXIS 812 (Tenn. Ct. App. 1999).

47-18-306. Duration of agreements. — (a) Unless the buyer is granted a right to cancel the health club agreement as provided in subsection (b), no buyer shall be bound by any health club agreement with a stated initial term greater than thirty-six (36) months.

(b) A health club agreement may include a provision or stipulation that provides for a month-to-month continuation of the agreement, either as an initial agreement between the operator and the buyer or as an extension of an agreement beyond a stated term or duration; provided, that the buyer has the right to cancel the continuing portion of the agreement by providing the health club operator thirty (30) days written notice by registered mail of the buyer's intent to cancel the agreement. [Acts 1986, ch. 894, § 4; 1989, ch. 460, § 13; 1996, ch. 929, §§ 9, 10.]

Cross-References. Certified mail instead of registered mail, § 1-3-111.

Cited: State v. Southern Fitness & Health, Inc., 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

47-18-307. Provisions contrary to public policy. — Any provision in a health club agreement, or in any document signed by the buyer in connection with such agreement, whereby the buyer agrees to waive any requirement of this part, shall be void as contrary to public policy. [Acts 1986, ch. 894, § 5.]

Cited: State v. Southern Fitness & Health, Inc., 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

47-18-308. Applicability of provisions. — Acts 1989, ch. 460 does not affect rights or duties that matured, liabilities or penalties that were incurred, or proceedings begun before January 1, 1990. [Acts 1986, ch. 894, § 6; 1989, ch. 460, § 16.]

Compiler's Notes. For codification of Acts 1989, ch. 460, see the Session Law Disposition Tables in Volume 13 of the Tennessee Code Annotated.

Cited: State v. Southern Fitness & Health, Inc., 743 S.W.2d 160, 1987 Tenn. LEXIS 1083 (Tenn. 1987).

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47-18-309. Certificate of registration — Application — Issuance. —

(a) An application for a certificate of registration shall be submitted on forms furnished by the division and shall be accompanied by:

- (1) A registration fee of two hundred fifty dollars (\$250) per location; and
- (2) Copies of all membership and health club agreements offered by the health club.

(b) Upon compliance with the provisions of this part by an applicant, the division shall issue a certificate of registration.

(c) No health club operator shall accept payment or a promise to pay pursuant to any health club agreement or pursuant to any subsequent amendment to an existing health club agreement until a copy of the health club agreement or the amendment thereto has been filed with and accepted by the division as being in compliance with the provisions of this chapter. A health club agreement or amendment shall be deemed accepted for use unless the division furnishes the health club operator written notice of rejection of the agreement or amendment within forty-five (45) days of the date of filing with the division. [Acts 1989, ch. 460, § 2; 1996, ch. 929, § 11.]

47-18-310. Certificate of registration—Duration—Renewal.—(a) A certificate of registration shall be valid for one (1) year from the date of issuance and shall be invalid upon expiration until it is renewed.

(b) Application for renewal of a certificate of registration shall be submitted to the division before the expiration date on forms furnished by the division, and shall be accompanied by:

(1) A fee of one hundred fifty dollars (\$150) per location; and

(2) Copies of all membership and health club agreements offered by the health club.

(c) Certificates of registration shall be subject to late renewal for thirty (30) days following their expiration date by payment of the prescribed fee plus a penalty of fifty dollars (\$50.00).

(d) No renewal application will be accepted more than thirty (30) days from its expiration.

(e) Upon compliance with the provisions of this part by an applicant, the division shall renew a certificate of registration. [Acts 1989, ch. 460, § 3.]

47-18-311. Certificate of registration — Transferability — Change of ownership. — (a) No certificate of registration shall be transferable to another person.

(b) Upon a change in the information contained in the original application for a certificate of registration or in the most current application for renewal thereof, which reflects a change of ownership of more than forty-nine percent (49%) of a health club or any of its locations, a new certificate of registration shall be applied for and obtained prior to commencing or continuing business. [Acts 1989, ch. 460, § 4.]

47-18-312. Violations.— In addition to any other penalty provided by this part, the following, upon conviction, constitutes a Class A misdemeanor:

(1) The violation of any provision of this part;

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(2) Obtaining or attempting to obtain a certificate of registration or a certificate of exemption through material misrepresentation or fraud;

(3) Obtaining an ownership interest in a health club or its assets when such health club is in violation of any provision of this part; or

(4) The willful failure to display conspicuously a proper certificate of registration or certificate of exemption. [Acts 1989, ch. 460, § 7; 1989, ch. 591, §§ 1, 6.]

Code Commission Notes. The misdemeanor in this section has been designated as a Class A misdemeanor by authority of § 40-35-110, which provides that an offense designated a misdemeanor without specification as to category is a Class A misdemeanor. See also § 39-11-114.

Cross-References. Classification of offenses, § 40-35-110.

Penalty for misdemeanor, § 40-35-111.

47-18-313. Responsibility for compliance — Change in ownership —

Notice. — (a) Any individual, firm, corporation, association, or other legal entity which obtains an ownership interest in a health club or its assets shall be responsible for determining that such health club is in compliance with the provisions of this part.

(b) A health club shall provide written notice to the division by registered or certified mail within ten (10) days after any change in ownership or the sale of a health club or any of its locations.

(c) A health club shall provide written notice to the division within ten (10) days after the health club or any of its locations ceases to conduct business.

[Acts 1989, ch. 460, § 8.]

Cross-References. Certified mail in lieu of

registered mail, § 1-3-111.

47-18-314. Certificates of exemption. — (a) It is unlawful to accept a down payment for a health club agreement in excess of thirty percent (30%) of the total cost of the agreement without a valid certificate of exemption.

(b) Each holder of a certificate of exemption shall display such certificate in a conspicuous place at each location where health club services or facilities are provided.

(c) Certificates of exemption shall be valid for one (1) year from the date of issuance.

(d) Application for renewal of a certificate of exemption shall be submitted before the expiration date on forms furnished by the division, and shall contain a sworn certification by the holder that the requirements for exemption continue to be met, and that the holder is in full compliance with all provisions of this part.

(e) In the event a holder of a certificate of exemption ceases to meet the requirements for exemption, then the certificate of exemption shall be invalid.

(f) Within ten (10) days after any change in the information contained in the original application or the application for renewal, each holder of a certificate of exemption shall notify the division of the change by registered or certified mail.

(g) An application for exemption shall be submitted on forms furnished by the division and shall be accompanied by:

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(1) A nonrefundable application fee of fifty dollars (\$50.00); and

(2) A current personal or corporate financial statement prepared by a public accountant who holds a valid permit to practice in Tennessee.

(h) A certificate of exemption shall be granted; provided, that the application provides proof satisfactory to the division that the following criteria are met:

(1) The applicant has a net worth in excess of two hundred fifty thousand dollars (\$250,000) per location where health club services or facilities are provided; and

(2) The applicant has operated under substantially the same ownership and control for at least five (5) years.

(i) For the purpose of calculating net worth as provided in subsection (h), the following are excluded:

(1) Assets which represent pre-payment for future services; and

(2) Accounts receivable due from health club members for future services.

(j) Any health club which had applied for and obtained an exemption from the bond requirement under prior law shall be exempt from the provisions of this part which prohibit acceptance of a down payment for a health club agreement in an amount in excess of thirty percent (30%) of the total cost of the agreement. The exemption established by this subsection shall only be valid as long as the health club operates under the same or substantially the same ownership and control that existed when the exemption was granted under prior law. [Acts 1989, ch. 460, § 12.]

Cross-References. Certified mail in lieu of registered mail, § 1-3-111.

47-18-315. Suspension, revocation, and nonrenewal of registration.

—(a) Notwithstanding any other provision to the contrary in this chapter, the commissioner or the commissioner's designee may suspend, revoke or refuse to renew any registration held under the provisions of this part.

(b) The commissioner or the commissioner's designee may assess a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for each separate violation of this part, the rules promulgated hereunder, or order of the commissioner or the commissioner's designee. Each day of continued violation

constitutes a separate violation.

(c) The provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, govern all matters and procedures respecting the hearing and judicial review of any contested case, as defined therein, arising under this part. [Acts 2001, ch. 126, § 2.]

47-18-316. Promulgation of rules.— The commissioner may promulgate rules and regulations to administer the provisions of this part. Such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. [Acts 2001, ch. 126, § 3.]

47-18-317 — 47-18-319. [Reserved.]

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47-18-320. Violations — Penalties and remedies. — (a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act, compiled in part 1 of this chapter.

(b) For the purpose of application of the Tennessee Consumer Protection Act, any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce and subject to the penalties and remedies as provided by that act. [Acts 1984, ch. 630, § 4; T.C.A., § 47-18-304; Acts 1989, ch. 460, § 15.]

NOTES TO DECISIONS

1. Enforcement.

Health Club Act, T.C.A. § 47-18-301 et seq., details relief available to the consumer, but does not mention whether the state may obtain relief on the consumer's behalf; however, T.C.A. § 47-18-320(a) provides that a violation of the Health Club Act constitutes a violation of the Tennessee Consumer Protection Act, T.C.A. § 47-18-101 et seq., which does provide for state enforcement. *State v. Thompson*, — S.W.3d —, 2003 Tenn. App. LEXIS 240 (Tenn. Ct. App. Mar. 20, 2003), rehearing denied, — S.W.3d —, 2003 Tenn. App. LEXIS 294 (Tenn. Ct. App. Apr. 14, 2003).

Collateral References. Constitutional right to jury trial in cause of action under state unfair or deceptive trade practices law. 54 A.L.R.5th 631.